

## Remarks

### I. Addressing the Examiner's Rejections of the Claims.

A. The Examiner rejected claims 51-52 on the ground of non-statutory obviousness-type double patenting asserting that the claims are unpatentable over claims 1, 6 and 7 of U.S. Patent No. 5,985,305.

Applicants submit that the accompanying Terminal Disclaimer overcomes this rejection. The Terminal Disclaimer presents the chain of title that demonstrates co-ownership of the present application and U.S. Patent No. 5,985,305. Accordingly, Applicants respectfully request withdrawal of this non-statutory obviousness-type double patenting rejection.

B. The Examiner rejected claims 51-52, 55, 57-60, 75 and 87 on the ground of non-statutory obviousness-type double patenting asserting that the claims are unpatentable over claims 1-2 and 5-10 of U.S. Patent No. 6,261,584.

Applicants submit that the accompanying Terminal Disclaimer overcomes this rejection. The Terminal Disclaimer presents the chain of title that demonstrates co-ownership of the present application and U.S. Patent No. 6,261,584. Accordingly, Applicants respectfully request withdrawal of this non-statutory obviousness-type double patenting rejection.

C. The Examiner rejected claims 51-54 and 76-86 on the ground of non-statutory obviousness-type double patenting asserting that the claims are unpatentable over claims 1-3 and 10-11 of U.S. Patent No. 5,728,396.

Applicants submit that the accompanying Terminal Disclaimer overcomes this rejection. The Terminal Disclaimer presents the chain of title that demonstrates co-ownership of the present application and U.S. Patent No. 5,728,396. Accordingly, Applicants respectfully request withdrawal of this non-statutory obviousness-type double patenting rejection.

## II. Conclusion.

Applicants respectfully submit that the claims comply with the requirements of 35 U.S.C. §112 and define an invention that is patentable over the art. Accordingly, a Notice of Allowance is believed to be in order.

Please direct all further communications in this application to:

**CUSTOMER NUMBER: 000074866**

Barbara G. McClung, Esq.  
Vice President, General Counsel and Corporate Secretary  
Intarcia Therapeutics, Inc.  
24650 Industrial Blvd  
Hayward CA 94545  
Phone: 510-782-7800 ext 122  
Facsimile: 510-782-7801.

If the Examiner notes any further matters which the Examiner believes may be expedited by a telephone interview, the Examiner is requested to contact the undersigned at 510-782-7800, ext 122.

Respectfully submitted,

Dated: 2 July 2009

By: /Barbara G. McClung/

---

Barbara G. McClung  
Registration No. 33,113  
Attorney for Applicants